

BEFORE THE PUBLIC UTILITIES COMMISSION OF THE STATE OF CALIFORNIA

Joint Application of AT&T Communications of California, Inc. (U 5002 C) and WorldCom, Inc. for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Switching in Its First Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 01-02-024
(Filed February 21, 2001)

Application of AT&T Communications of California, Inc. (U 5002 C) and WorldCom, Inc. for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Loops in Its First Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 01-02-035
(Filed February 28, 2001)

Application of The Telephone Connection Local Services, LLC (U 5522 C) for the Commission to Reexamine the Recurring Costs and Prices of the DS-3 Entrance Facility Without Equipment in Its Second Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 02-02-031
(Filed February 28, 2002)

Application of AT&T Communications of California, Inc. (U 5002 C) and WorldCom, Inc. for the Commission to Reexamine the Recurring Costs and Prices of Unbundled Interoffice Transmission Facilities and Signaling Networks and Call-Related Databases in Its Second Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of

Application 02-02-032
(Filed February 28, 2002)

D.99-11-050.

Application of Pacific Bell Telephone Company (U 1001 C) for the Commission to Reexamine the Costs and Prices of the Expanded Interconnection Service Cross-Connect Network Element in the Second Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 02-02-034
(Filed February 28, 2002)

Application of XO California, Inc. (U 5553 C) for the Commission to Reexamine the Recurring Costs of DS1 and DS3 Unbundled Network Element Loops in Its Second Annual Review of Unbundled Network Element Costs Pursuant to Ordering Paragraph 11 of D.99-11-050.

Application 02-03-002
(Filed March 1, 2002)

**ADMINISTRATIVE LAW JUDGE'S RULING
DENYING MOTION FOR BRIEFING OF VIRGINIA ARBITRATION ORDER**

On September 15, 2003, AT&T Communications of California, Inc. (AT&T) and WorldCom, Inc. (WorldCom) (collectively, Joint Applicants) requested the opportunity to brief an order recently issued by the Federal Communications Commission's (FCC's) Wireline Competition Bureau resolving the arbitration of an interconnection agreement in Virginia (hereinafter, Virginia Arbitration Order).¹ Joint Applicants state that the FCC Bureau's decision, where it sat in the

¹ Memorandum Opinion and Order, *In the Matter of Petition of WorldCom, Inc. Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., and for Expedited Arbitration*; (CC Docket No. 00-218) *In the Matter of Petition*

Footnote continued on next page

stead of the Virginia State Corporation Commission as arbitrator, provides specific guidance on the proper interpretation and application of the Total Element Long Run Incremental Cost (TELRIC) standard as it applies to the pricing of unbundled network elements (UNEs). Joint Applicants request to file a brief, limited to 75 pages, with respect to a number of issues discussed in the Virginia Arbitration Order.

Pacific Bell Telephone Company (SBC California) opposes this request. SBC California states that any attempt to extrapolate findings from the Virginia Arbitration Order would be misplaced because the order is based on cost models, parties, an underlying network, and engineering assumptions that are all different from the record in the SBC California UNE Reexamination proceeding. According to SBC California:

Drawing parallels between the Wireline Competition Bureau's *Virginia Arbitration Order* and this proceeding necessarily would produce contested comparisons about the similarities (or lack thereof) of the models and the factual records. This exercise would have no real value. (SBC California Response, 9/30/03, p. 3.)

I agree with SBC California on this point. The Virginia Arbitration Order concerns an evaluation of Verizon Virginia, Inc.'s cost model and the Modified Synthesis Model filed in the Virginia case by AT&T and WorldCom. These models are not on the record of this proceeding, where the Commission is evaluating SBC California's loop, switching, and interoffice transport cost models and the HAI Model Version 5.3 filed by Joint Applicants. I see little

of AT&T Communications of Virginia Inc., Pursuant to Section 252(e)(5) of the Communications Act for Preemption of the Jurisdiction of the Virginia State Corporation Commission Regarding Interconnection Disputes with Verizon Virginia Inc., (CC Docket No. 00-251), FCC Wireline Competition Bureau, DA 03-2738, (rel. August 29, 2003).

value in allowing up to 75 pages of additional argument on the Virginia Arbitration Order when both cost models evaluated in that order are different from the two cost models at issue in California. Voluminous arguments on the relevance of the outcomes in the Virginia Arbitration Order are likely to only confuse and cloud the decision-making in this case, which should derive from the cost models and the record developed over the past year in this proceeding.

Nevertheless, I will take official notice of the Virginia Arbitration Order and afford it the same weight as all of the other arbitration and UNE pricing decisions from other states already cited by the parties in their comments and briefs.

Therefore, **IT IS RULED** that:

1. The motion to brief the Virginia Arbitration Order filed by American Telegram and Telegraph (AT&T) and WorldCom, Inc. (WorldCom) is denied.
2. The Commission will take official notice of the Virginia Arbitration Order cited by AT&T and WorldCom.

Dated October 9, 2003, at San Francisco, California.

/s/ DOROTHY J. DUDA

Dorothy J. Duda
Administrative Law Judge

CERTIFICATE OF SERVICE

I certify that I have by mail this day served a true copy of the original attached Administrative Law Judge's Ruling Denying Motion for Briefing of Virginia Arbitration Order on all parties of record in this proceeding or their attorneys of record.

Dated October 9, 2003, at San Francisco, California.

/s/ ELIZABETH LEWIS

Elizabeth Lewis

N O T I C E

Parties should notify the Process Office, Public Utilities Commission, 505 Van Ness Avenue, Room 2000, San Francisco, CA 94102, of any change of address to insure that they continue to receive documents. You must indicate the proceeding number on the service list on which your name appears.

The Commission's policy is to schedule hearings (meetings, workshops, etc.) in locations that are accessible to people with disabilities. To verify that a particular location is accessible, call: Calendar Clerk (415) 703-1203.

If specialized accommodations for the disabled are needed, e.g., sign language interpreters, those making the arrangements must call the Public Advisor at

A.01-02-024, et al. DOT/hl2

(415) 703-2074, TTY 1-866-836-7825 or (415) 703-5282 at least three working days in advance of the event.